



General Assembly

Substitute Bill No. 5172

February Session, 2012

* ____HB05172VA_LAB031512____ *

AN ACT CONCERNING STATE MILITARY SERVICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 27-61 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For military service when ordered out by the Governor, except
4 when federal pay has been authorized, each [commissioned officer,
5 warrant officer and enlisted person] member of the armed forces of the
6 state assigned to a federally recognized National Guard unit in
7 Connecticut shall be paid at the same rate, including longevity pay and
8 allowances, as would be authorized if ordered out by federal
9 authority. [but such rate shall be increased by the amount of ten
10 dollars for enlisted persons and five dollars for warrant officers and
11 first and second lieutenants.]

12 (b) For military service when ordered out by the Governor, each
13 [commissioned officer, warrant officer and enlisted person] member of
14 the armed forces of the state in a unit of the organized militia which is
15 not federally recognized shall be paid on the same scale as the federal
16 pay for corresponding grades [in the tables of organization] of the
17 federally recognized National Guard, [increased by the amount of ten
18 dollars for enlisted persons and five dollars for warrant officers and
19 first and second lieutenants] including longevity pay and allowances.

20 (c) Unless otherwise provided by law, the determination of the
21 corresponding grades in the [organized militia, other than the federally
22 recognized National Guard] armed forces of the state, shall be made by
23 the Adjutant General. [Officers, warrant officers and enlisted personnel
24 of the Connecticut National Guard who attend schools, conferences or
25 staff or ceremonial exercises by order of the Governor shall be paid
26 their travel and actual expenses. Commissioned officers serving on
27 boards or military commissions or attending conferences called by
28 higher headquarters in or out of the state shall receive pay and
29 allowance of their grade plus actual expenses.]

30 (d) Each [commissioned and warrant officer, chief petty officer and
31 enlisted person] member of the naval militia when ordered out by the
32 Governor, except when federal pay has been authorized, shall receive
33 for each day's service the same pay and allowances as are prescribed
34 by the federal government for the corresponding grades of members of
35 the United States Navy. [but such pay shall be increased by the
36 amount of ten dollars for enlisted persons and five dollars for chief
37 petty officers, warrant officers, lieutenants junior grade and ensigns.]

38 (e) Members of the armed forces of the state, with the consent of the
39 member and the consent of the Governor, may be ordered to perform
40 military duty, including training, with or without pay and allowances.
41 Prior to being ordered to perform military duty without pay and
42 allowances, members of the armed forces shall be notified of their right
43 to refuse consent at the time the consent required by this subsection is
44 sought. When performing military duty with pay and allowances, such
45 member shall be entitled to pay and allowances on the same scale as
46 the corresponding grades of the federally recognized National Guard.
47 Military duty without pay and allowances shall be, for all purposes
48 other than for compensation for the duty performed, construed as if it
49 were duty with pay and allowances.

50 (f) Members of the armed forces detailed from the retired list in
51 accordance with section 27-54, with the consent of the member and the
52 consent of the Governor, may be ordered to perform military duty

53 with or without pay. Prior to being ordered to perform military duty
54 without pay and allowances, members of the armed forces detailed
55 from the retired list in accordance with section 27-54 shall be notified
56 of their right to refuse consent at the time the consent required by this
57 section is sought. When performing military duty with pay and
58 allowances, such member shall be entitled to pay and allowances in
59 their state retired grade on the same scale as the corresponding grades
60 of the federally recognized National Guard. Military duty without pay
61 and allowances shall be, for all purposes other than for compensation
62 for the duty performed, construed as if it were duty with pay and
63 allowances.

64 Sec. 2. Section 27-67 of the general statutes is repealed and the
65 following is substituted in lieu thereof (*Effective from passage*):

66 [The commanding officer of any officer, soldier or sailor wounded,
67 disabled or killed, when such disability or death is incident to the
68 service, shall immediately make or cause to be made, by one or more
69 officers detailed for the purpose, full inquiry and report concerning
70 such injury or death, in writing, through channels to the Adjutant
71 General, with the names and addresses of qualified witnesses and a
72 full statement of the testimony of each concerning the nature and
73 extent of the injury and the manner of its occurrence. Each member of
74 the armed forces of the state who, when on duty or assembled therefor,
75 in accordance with orders of competent authority, or when called in
76 aid of any civil authority, is injured or contracts any disease while in
77 the performance of his or her duty or assembly therefor, without fault
78 or neglect on his or her part, and thereby is temporarily or
79 permanently disabled from continuing to perform his or her usual
80 duties or occupation, shall, during the period of disability, receive
81 benefits in accordance with the provisions of chapter 568.]

82 (a) As used in this section, "military duty" means the performance of
83 military service by a member of the armed forces of the state pursuant
84 to competent state military orders, whether paid or not paid for such
85 military service, including training, performance of emergency

86 response missions, and while travelling directly to or returning
87 directly from the location of such military duty.

88 (b) Except as provided in section 4-165, a member of the armed
89 forces of the state performing military duty in accordance with section
90 27-61, as amended by this act, shall be construed to be an employee of
91 the state for the specific purposes of liability, immunity and being
92 subject to the jurisdiction of the Workers' Compensation Commission
93 and shall be compensated in accordance with the provisions of chapter
94 568 for death, disability or injury incurred while performing such
95 military duty. A member of the armed forces of the state performing
96 such military duty shall not be considered an employee of the state for
97 other purposes.

98 (c) Any member of the armed forces of the state who performs
99 military duties pursuant to sections 27-17 and 27-18, shall be construed
100 to be an employee of the state for the specific purposes of liability,
101 immunity and being subject to the jurisdiction of the Workers'
102 Compensation Commission and shall be compensated in accordance
103 with the provisions of chapter 568 for death, disability or injury
104 incurred while performing such military duties. A member of the
105 armed forces of the state performing such military duties shall not be
106 considered an employee of the state for other purposes.

107 (d) Any member of the armed forces of the state performing state
108 military duty in accordance with sections 27-17, 27-18 or 27-61, as
109 amended by this act, may collect benefits under the provisions of
110 chapter 568 based on the salary of the member's employment or the
111 average production wage in the state, as determined by the Labor
112 Commissioner under the provisions of section 31-309, whichever is
113 greater, if the member of the armed forces is injured while engaged in
114 military duties. The provisions of this subsection shall apply only if the
115 member of the armed forces of the state is unable to perform the
116 member's regular employment duties.

117 (e) For the purpose of this section, there shall be no prorating of

118 compensation benefits because of other employment by a member of
119 the armed forces of the state.

120 Sec. 3. Subsection (f) of section 31-58 of the general statutes is
121 repealed and the following is substituted in lieu thereof (*Effective from*
122 *passage*):

123 (f) "Employee" means any individual employed or permitted to
124 work by an employer but shall not include any individual employed in
125 camps or resorts which are open no more than six months of the year
126 or in domestic service in or about a private home, except any
127 individual in domestic service employment as defined in the
128 regulations of the federal Fair Labor Standards Act, or an individual
129 employed in a bona fide executive, administrative or professional
130 capacity as defined in the regulations of the Labor Commissioner or an
131 individual employed by the federal government, or any individual
132 engaged in the activities of an educational, charitable, religious,
133 scientific, historical, literary or nonprofit organization where the
134 employer-employee relationship does not, in fact, exist or where the
135 services rendered to such organizations are on a voluntary basis, or
136 any individual employed as a head resident or resident assistant by a
137 college or university, or any individual engaged in baby sitting, or an
138 outside salesman as defined in the regulations of the federal Fair Labor
139 Standards Act; or any individual employed by a nonprofit theater,
140 provided such theater does not operate for more than seven months in
141 any calendar year; or a member of the armed forces of the state
142 performing military duty;

143 Sec. 4. Subdivision (9) of section 31-275 of the 2012 supplement to
144 the general statutes is repealed and the following is substituted in lieu
145 thereof (*Effective from passage*):

146 (9) (A) "Employee" means any person who:

147 (i) Has entered into or works under any contract of service or
148 apprenticeship with an employer, whether the contract contemplated
149 the performance of duties within or without the state;

150 (ii) Is a sole proprietor or business partner who accepts the
151 provisions of this chapter in accordance with subdivision (10) of this
152 section;

153 (iii) Is elected to serve as a member of the General Assembly of this
154 state;

155 (iv) Is a salaried officer or paid member of any police department or
156 fire department;

157 (v) Is a volunteer police officer, whether the officer is designated as
158 special or auxiliary, upon vote of the legislative body of the town, city
159 or borough in which the officer serves;

160 (vi) Is an elected or appointed official or agent of any town, city or
161 borough in the state, upon vote of the proper authority of the town,
162 city or borough, including the elected or appointed official or agent,
163 irrespective of the manner in which he or she is appointed or
164 employed. Nothing in this subdivision shall be construed as affecting
165 any existing rights as to pensions which such persons or their
166 dependents had on July 1, 1927, or as preventing any existing custom
167 of paying the full salary of any such person during disability due to
168 injury arising out of and in the course of his or her employment;

169 (vii) Is [an officer or enlisted person of the National Guard or other]
170 a member of the armed forces of the state [called to active duty by the
171 Governor while performing his or her active duty service] performing
172 military duty, whether paid or not paid for such military duty, in
173 accordance with the provisions of sections 27-17, 27-18 or 27-61, as
174 amended by this act, while performing such member's military duty;
175 or

176 (viii) Is elected to serve as a probate judge for a probate district
177 established in section 45a-2.

178 (B) "Employee" shall not be construed to include:

179 (i) Any person to whom articles or material are given to be treated

180 in any way on premises not under the control or management of the
181 person who gave them out;

182 (ii) One whose employment is of a casual nature and who is
183 employed otherwise than for the purposes of the employer's trade or
184 business;

185 (iii) A member of the employer's family dwelling in his house; but,
186 if, in any contract of insurance, the wages or salary of a member of the
187 employer's family dwelling in his house is included in the payroll on
188 which the premium is based, then that person shall, if he sustains an
189 injury arising out of and in the course of his employment, be deemed
190 an employee and compensated in accordance with the provisions of
191 this chapter;

192 (iv) Any person engaged in any type of service in or about a private
193 dwelling provided he is not regularly employed by the owner or
194 occupier over twenty-six hours per week;

195 (v) An employee of a corporation who is a corporate officer and
196 who elects to be excluded from coverage under this chapter by notice
197 in writing to his employer and to the commissioner; or

198 (vi) Any person who is not a resident of this state but is injured in
199 this state during the course of his employment, unless such person (I)
200 works for an employer who has a place of employment or a business
201 facility located in this state at which such person spends at least fifty
202 per cent of his employment time, or (II) works for an employer
203 pursuant to an employment contract to be performed primarily in this
204 state.

205 Sec. 5. Section 27-75 of the general statutes is repealed and the
206 following is substituted in lieu thereof (*Effective from passage*):

207 Memorials to [veteran soldiers, sailors or marines] veterans of the
208 armed forces of the state or the United States may be placed in state
209 [armories] military facilities or erected upon [grounds appurtenant

210 thereto by cities, towns or boroughs] state-owned or controlled
211 military property, subject to the approval of the Adjutant General and
212 without expense to the state.

213 Sec. 6. Subsections (b) and (c) of section 5-259d of the general
214 statutes are repealed and the following is substituted in lieu thereof
215 (*Effective from passage*):

216 (b) Notwithstanding any provision of the general statutes or any
217 public or special act, the state shall continue to provide coverage,
218 under a group hospitalization and medical and surgical insurance plan
219 sponsored by the state under section 5-259, for the dependents of any
220 state employee and the state employee who is a member of the armed
221 forces of any state or of any reserve component of the armed forces of
222 the United States and who has been called to active service in the
223 armed forces of any state or the United States for [(1) Operation
224 Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency
225 operation or a military operation whose mission was substantially
226 changed as a result of the attacks of September 11, 2001, (4) federal
227 action or state action authorized by the Governor in support of the
228 federal Department of Homeland Security's Operation Liberty Shield,
229 military operations that are authorized by the President of the United
230 States that entail military action against Iraq, or federal action or state
231 action authorized by the Governor to combat terrorism within the
232 United States, or (5) federal action or state action authorized by the
233 Governor or the President of the United States that entails service or
234 military action as part of Operation Jump Start at the border of the
235 United States and Mexico] a military operation, war or national
236 emergency, for the duration of such call-up to active service, provided
237 such state employee and dependents were covered by the insurance
238 plan on the date the state employee was called to active service and the
239 state employee continues to pay any amount that the employee was
240 required to pay for coverage before being called to active service. Any
241 payment required to be made by the employee for coverage under this
242 subsection may be deducted from compensation provided under
243 subsection (c) of this section. The state shall reimburse any state

244 employee who has paid premiums for the continuation of any such
245 group hospitalization and medical and surgical insurance plan
246 between the date such state employee was called to active service and
247 November 20, 2001. The reimbursement shall be in the amount of the
248 state's portion of the premiums so paid.

249 (c) Notwithstanding any provision of the general statutes or any
250 public or special act, any state employee who is a member of the
251 armed forces of any state or of any reserve component of the armed
252 forces of the United States and who has been called to active service in
253 the armed forces of any state or the United States for [(1) Operation
254 Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency
255 operation or a military operation whose mission was substantially
256 changed as a result of the attacks of September 11, 2001, (4) federal
257 action or state action authorized by the Governor in support of the
258 federal Department of Homeland Security's Operation Liberty Shield,
259 military operations that are authorized by the President of the United
260 States that entail military action against Iraq, or federal action or state
261 action authorized by the Governor to combat terrorism within the
262 United States, or (5) federal action or state action authorized by the
263 Governor or the President of the United States that entails service or
264 military action as part of Operation Jump Start at the border of the
265 United States and Mexico] a military operation, war or national
266 emergency, shall continue to accrue all vacation time, equivalent leave
267 time and sick time to which the employee would be entitled if he or
268 she had continued working in his or her state position during the time
269 of such active service, and shall be credited with such accrued vacation
270 time, equivalent leave time or sick time, except that if the accrual of
271 such vacation time, equivalent leave time or sick time pursuant to this
272 subsection while on active service would cause the employee to exceed
273 any limit on leave time pursuant to any provision of the general
274 statutes, the regulations of Connecticut state agencies or a collective
275 bargaining agreement, the limit shall be temporarily waived to allow
276 the employee to use the excess leave time before the later of the
277 following: [(A)] (1) From the date of the state employee's discharge

278 from active service until the state employee returns to state
279 employment, [(B)] (2) not later than one hundred twenty calendar days
280 after the state employee returns to state employment, [(C)] (3) not later
281 than one hundred twenty calendar days after the state employee is
282 credited with such excess leave time, or [(D)] (4) for state employees in
283 teaching or professional positions in Unified School District #1
284 established pursuant to section 18-99a within the Department of
285 Correction who were credited with equivalent leave time pursuant to
286 this section, not later than one year after the employee is credited with
287 such excess leave time. The employee shall be entitled to a leave of
288 absence with pay as provided in section 27-33 from the date on which
289 the employee was called to active service. After the expiration of such
290 leave of absence with pay, the state employee shall receive part pay for
291 the duration of such call-up to active service if the compensation
292 received by the state employee for such active service is less than the
293 employee's base rate of pay, plus longevity, in the employee's primary
294 position. The state employee shall not be required to exhaust accrued
295 vacation time, equivalent leave time or sick time in order to be eligible
296 for the paid leave of absence and part pay under this subsection. As
297 used in this section, "equivalent leave time" means leave time classified
298 as other than vacation time or sick time and includes, but is not limited
299 to, leave time classified as recess rather than vacation time.

300 Sec. 7. Subsection (a) of section 29-1s of the 2012 supplement to the
301 general statutes is repealed and the following is substituted in lieu
302 thereof (*Effective from passage*):

303 (a) (1) Wherever the term "Department of Public Safety" is used in
304 the following general statutes, the term "Department of Emergency
305 Services and Public Protection" shall be substituted in lieu thereof; and
306 (2) wherever the term "Commissioner of Public Safety" is used in the
307 following general statutes, the term "Commissioner of Emergency
308 Services and Public Protection" shall be substituted in lieu thereof: 1-
309 24, 1-84b, 1-217, 2-90b, 3-2b, 4-68m, 4a-2a, 4a-18, 4a-67d, 4b-1, 4b-130, 5-
310 142, 5-146, 5-149, 5-150, 5-169, 5-173, 5-192f, 5-192t, 5-246, 6-32g, 7-169,
311 7-285, 7-294f to 7-294h, inclusive, 7-294l, 7-294n, 7-294y, 7-425, 9-7a, 10-

233h, 12-562, 12-564a, 12-586f, 12-586g, 13a-123, 13b-69, 13b-376, 14-10, 14-64, 14-67j, 14-67m, 14-67w, 14-103, 14-108a, 14-138, 14-152, 14-163c, 14-211a, 14-212a, 14-212f, 14-219c, 14-227a, 14-227c, 14-267a, 14-270c to 14-270f, inclusive, 14-283, 14-291, 14-298, 14-315, 15-98, 15-140r, 15-140u, 16-256g, 16a-103, 17a-105a, 17a-106a, 17a-500, 17b-90, 17b-137, 17b-192, 17b-225, 17b-279, 17b-490, 18-87k, 19a-112a, 19a-112f, 19a-179b, 19a-409, 19a-904, 20-12c, 20-327b, 21a-36, 21a-283, 22a-2, 23-8b, 23-18, 26-5, 26-67b, [27-19a,] 27-107, 28-25b, 28-27, 28-27a, 28-30a, 29-1c, 29-1e to 29-1h, inclusive, 29-1q, 29-1zz, 29-2, 29-2a, 29-2b, 29-3a, 29-3b, 29-4a, 29-6a, 29-7, 29-7b, 29-7c, 29-7h, 29-7m, 29-7n, 29-8, 29-9, 29-10, 29-10a, 29-10c, 29-11, 29-12, 29-17a, 29-17b, 29-17c, 29-18 to 29-23a, inclusive, 29-25, 29-26, 29-28, 29-28a, 29-30 to 29-32, inclusive, 29-32b, 29-33, 29-36f to 29-36i, inclusive, 29-36k, 29-36m, 29-36n, 29-37a, 29-37f, 29-38b, 29-38e, 29-38f, 29-108b, 29-143i, 29-143j, 29-145 to 29-151, inclusive, 29-152f to 29-152j, inclusive, 29-152m, 29-152o, 29-152u, 29-153, 29-155d, 29-156a, 29-161g to 29-161i, inclusive, 29-161k to 29-161m, inclusive, 29-161o to 29-161t, inclusive, 29-161v to 29-161z, inclusive, 29-163, 29-164g, 29-166, 29-176 to 29-179, inclusive, 29-179f to 29-179h, 31-275, as amended by this act, 38a-18, 38a-356, 45a-63, 46a-4b, 46a-170, 46b-15a, 46b-38d, 46b-38f, 51-5c, 51-10c, 51-51o, 51-277a, 52-11, 53-39a, 53-134, 53-199, 53-202, 53-202b, 53-202c, 53-202g, 53-202l, 53-202n, 53-202o, 53-278c, 53-341b, 53a-3, 53a-30, 53a-54b, 53a-130, 53a-130a, 54-1f, 54-1l, 54-36e, 54-36i, 54-36n, 54-47aa, 54-63c, 54-76l, 54-86k, 54-102g to 54-102j, inclusive, 54-102m, 54-102pp, 54-142j, 54-222a, 54-240, 54-240m, 54-250 to 54-258, inclusive, 54-259a, 54-260b, and 54-300.

Sec. 8. Sections 27-19a, 27-67a, 27-69 and 27-69a of the general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	27-61
Sec. 2	<i>from passage</i>	27-67
Sec. 3	<i>from passage</i>	31-58(f)
Sec. 4	<i>from passage</i>	31-275(9)
Sec. 5	<i>from passage</i>	27-75

Sec. 6	<i>from passage</i>	5-259d(b) and (c)
Sec. 7	<i>from passage</i>	29-1s(a)
Sec. 8	<i>from passage</i>	Repealer section

VA*Joint Favorable Subst. C/R*

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